

Amendment 80 Proposed Rule – Public Comment Period
Alaska Region

I. Overview

The proposed rule for Amendment 80 to the Bering Sea/Aleutian Islands (BSAI) Fishery management plan (FMP) was published in the *Federal Register* on May 30 (72 FR 30052). Prior to the publication, NMFS made the version of the proposed rule that was submitted to the *Federal Register* available to the public. NMFS also noticed and held a public workshop in the Seattle on May 23. Numerous representatives from the affected industry attended, received an overview of the proposed rule, and asked questions.

Several issues arose during the review of the proposed rule. In almost all cases, the questions or concerns that the industry raised about specific provisions in the rule were issues that the agency had identified as potentially controversial and specifically requested public comment. These issues tended to be issues that may not have been addressed in the development of the program, or where different interpretation of Council intent was possible.

Attached is an overview of the Amendment 80 Program provided at the May 23 public workshop in Seattle, key dates in the implementation of the program, key provisions of the proposed rule, and a list of the issues of greatest concern. Based on industry comments, NMFS intends to hold a second public workshop on June 18 in Seattle at the Nordby Conference center to review the proposed rule in greater detail.

NOAA Fisheries

BACKGROUND ON AMENDMENT 80

Public Workshop – May 23, 2007

Leif Erikson Hall, Seattle, Wa.

Amendment 80 was adopted by the North Pacific Fishery Management Council (Council) in June 2006. If approved, this action would allocate several Bering Sea and Aleutian Islands (BSAI) non-pollock trawl groundfish species among trawl fishery sectors, and facilitate the formation of harvesting cooperatives in the non-American Fisheries Act (non-AFA) trawl catcher/processor sector.

The Council adopted Amendment 80 to meet the broad goals of: (1) improving retention and utilization of fishery resources by the non-AFA trawl catcher/processor fleet by extending the groundfish retention standard (GRS) to non-AFA trawl catcher/processor vessels of all lengths; (2) allocating fishery resources among BSAI trawl harvesters in consideration of historic and present harvest patterns and future harvest needs; (3) authorizing the allocation of groundfish species to harvesting cooperatives and establishing a LAPP for the non-AFA trawl catcher/processors to reduce potential GRS compliance costs, encourage fishing practices with lower discard rates, and improve the opportunity for increasing the value of harvested species; and (4) limiting the ability of non-AFA trawl catcher/processors to expand their harvesting capacity into other fisheries not managed under a LAPP.

The following section provides an overview of the suite of measures that would be implemented by Amendment 80 and its accompanying regulations.

1. Community Development Quota (CDQ) Program

Amendment 80 would incorporate statutory mandates in the Magnuson-Stevens Fishery Conservation and Management Act as amended by Section 416 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law No. 109-241; July 11, 2006), and the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Public Law No. 109-479, January 12, 2007). These provisions modify the percentage of the total allowable catch (TAC) for directed fisheries that are allocated to the CDQ Program, and the percentage of halibut, crab, and salmon prohibited species catch (PSC) allocated to the CDQ Program as prohibited species quota. Also proposed are other provisions necessary to bring Amendment 80 and the CDQ Program into compliance with applicable law.

2. Amendment 80 Sector and Amendment 80 Vessels

Eligible Amendment 80 sector participants would be defined by applicable legislation and the implementing regulations. Amendment 80 would incorporate statutory mandates in section 219 of the Consolidated Appropriations Act of 2005 (Public Law No. 108-447; December 8, 2004) which defines who is eligible to harvest fish in the non-AFA catcher/processor sector for a defined list of non-pollock groundfish species. Amendment 80 would define the “Amendment 80 sector” as non-AFA trawl catcher/processor harvesters eligible to fish under this statutory mandate. Non-AFA trawl catcher/processor vessels that may be used to fish in the Amendment 80 sector are “Amendment 80 vessels.”

3. Amendment 80 Species

Amendment 80 would allocate a specific portion of six non-pollock groundfish species defined in Public Law No. 108-447 among trawl fishery sectors. These six species would be the “Amendment 80 species,” and include Aleutian Islands Pacific ocean perch, BSAI Atka

mackerel, BSAI flathead sole, BSAI Pacific cod, BSAI rock sole, and BSAI yellowfin sole. These Amendment 80 species would be allocated between the Amendment 80 sector and all other BSAI trawl fishery participants. These other trawl fishery participants include AFA catcher/processors, AFA catcher vessels, and non-AFA catcher vessels. Collectively, this group of trawl fishery participants comprises the “BSAI trawl limited access sector.” These six species are economically valuable and have historically been targeted by non-AFA trawl catcher/processors, but fisheries associated with these species have high rates of discard of other groundfish species.

4. Allocations of TAC and PSC in the BSAI Trawl Fisheries

Each year, NOAA fisheries would allocate an amount of Amendment 80 species available for harvest, and crab and halibut PSC to two defined groups of trawl fishery participants: (1) the Amendment 80 sector; and (2) the BSAI trawl limited access sector. The amount of Amendment 80 species TAC assigned to each sector is based on the amount of TAC remaining after allocation to the CDQ Program and for incidental catch allowance requirements in other fisheries as necessary. This allocation amount is termed the initial TAC (ITAC). Allocations made to one sector would not be subject to harvest by participants in the other fishery sector except under a specific condition. Fish that are allocated to the BSAI trawl limited access sector and projected to be unharvested could be reallocated to Amendment 80 cooperatives.

Amendment 80 would further address the Council’s goals of reducing bycatch and discard of groundfish species by reducing the total amount of crab and halibut PSC allocated to the Amendment 80 sector.

5. BSAI Trawl Limited Access Sector

Amendment 80 would provide a specific allocation of Amendment 80 species and crab and halibut PSC to this sector. Amendment 80 would modify the calculation of AFA sideboard limits for Amendment 80 species and crab and halibut PSC limits necessary to allow the efficient operation of AFA vessels.

6. Amendment 80 Quota Share

Amendment 80 would assign Amendment 80 quota share (QS) for Amendment 80 species to the owners of Amendment 80 vessels. Amendment 80 QS could be used to yield an exclusive harvest privilege for a portion of the Amendment 80 sector ITAC. Amendment 80 would establish criteria for harvesters in the Amendment 80 sector to apply for and receive QS, criteria for initially allocating QS, and criteria for the transfer of QS.

Amendment 80 would assign Amendment 80 QS based on historic catch patterns of an Amendment 80 vessel during 1998 through 2004. Amendment 80 would assign QS based on the relative proportion of an Amendment 80 species harvested by an Amendment 80 vessel compared to all other Amendment 80 vessels.

Amendment 80 would assign Amendment 80 QS only to members of the Amendment 80 sector who submit a complete application for Amendment 80 QS. In most cases, Amendment 80 would assign the Amendment 80 QS to an Amendment 80 vessel owner. In specific cases where an Amendment 80 vessel has been lost or is otherwise permanently ineligible to fish in U.S. waters, the Amendment 80 QS would be assigned to the holder of the license limitation Amendment 80 (LLP) license originally assigned to that Amendment 80 vessel. Once Amendment 80 QS is assigned based on the historic catch patterns of an Amendment 80 vessel, it could not be divided or transferred separately from that Amendment 80 vessel. If Amendment 80 QS is assigned to

the LLP license originally issued for that Amendment 80 vessel, it could not be transferred separately from that LLP license.

7. Amendment 80 Cooperatives

Persons who receive Amendment 80 QS would be able to join a cooperative to receive an exclusive harvest privilege for a portion of the ITAC. Amendment 80 QS holders would be able to form a cooperative with other Amendment 80 QS holders on an annual basis, provided they meet specific criteria. Each Amendment 80 cooperative would receive an annual cooperative quota (CQ), an amount of Amendment 80 species ITAC that would be for the exclusive use by that cooperative for harvest in a given year. Amendment 80 would establish requirements for forming an Amendment 80 cooperative with other Amendment 80 QS holders, the allocation of annual CQ to a cooperative, and transfers of CQ among cooperatives. A cooperative would receive an amount of CQ equivalent to the proportion of QS held by all of the members of the cooperative relative to the total QS held by all Amendment 80 QS holders.

Each Amendment 80 cooperative would receive an annual CQ with an exclusive limit on the amount of crab and halibut PSC the cooperative can use while harvesting in the BSAI. This halibut and crab PSC CQ would be assigned to a cooperative proportional to the amount of Amendment 80 QS held by the members, and would not be based on the amount of crab or halibut PSC historically used by the cooperative members.

Amendment 80 would provide opportunities for Amendment 80 sector participants to trade harvest privileges among cooperatives to further encourage efficient fishing operations. An Amendment 80 cooperative would not be able to transfer CQ to the Amendment 80 limited access fishery, or to the BSAI trawl limited access sector.

A cooperative structure may allow Amendment 80 vessel operators to manage PSC rates more efficiently than vessels who must race to harvest fish as quickly as possible before a PSC limit is reached and a fishery is subject to closure. By reducing PSC through more efficient cooperative operations, such as through gear modifications that reduce PSC use, Amendment 80 vessel operators may also increase the harvest of valuable targeted groundfish species and improve revenues that would otherwise be foregone if a fishery were closed due to reaching PSC limits.

Amendment 80 would allow Amendment 80 cooperatives to receive a rollover of an additional amount of CQ, if a portion of the Amendment 80 species or crab or halibut PSC allocated to the BSAI trawl limited access sector is projected to go unharvested. This rollover to the Amendment 80 cooperatives would be at the discretion of NMFS based on projected harvest rates in the BSAI trawl limited access sector and other criteria. Each Amendment 80 cooperative would receive an additional amount of CQ that is based on the proportion of the Amendment 80 QS held by that Amendment 80 cooperative compared to all other Amendment 80 cooperatives.

Fishery participants in a cooperative could consolidate fishing operations on a specific Amendment 80 vessel or subset of Amendment 80 vessels, thereby reducing monitoring and enforcement (M&E) and other operational costs, and harvest fish in a manner more likely to be economically efficient and less wasteful.

8. Amendment 80 Limited Access Fishery

Amendment 80 QS holders that choose not to join an Amendment 80 cooperative would be able to participate in the Amendment 80 limited access fishery. Amendment 80 would assign the Amendment 80 limited access fishery the amount of the Amendment 80 sector's allocation of Amendment 80 species ITAC and halibut and crab PSC which remains after allocation to all of

the Amendment 80 cooperatives. Participants fishing in the Amendment 80 limited access fishery would continue to compete with each other; would not realize the same potential benefits from consolidation, and coordination; and would not receive an exclusive harvest privilege that accrues to members of an Amendment 80 cooperative.

9. Use Caps

The Council considered the effect of consolidation with the allocation of an excessive share of harvest privileges to Amendment 80 cooperatives. In response, Amendment 80 would implement use caps to limit the amount of Amendment 80 QS a person could hold, the amount of CQ they could use, and the amount of ITAC an Amendment 80 vessel could harvest. These use caps would moderate some of the potentially adverse effects of excessive consolidation of fishing operations on fishery participants, such as lost employment opportunities for fishing crew while providing economic efficiencies to Amendment 80 QS holders.

10. Gulf of Alaska Sideboard Limits

Catch limits, commonly known as sideboards, would limit the ability of Amendment 80 vessel operators to expand their harvest efforts in the Gulf of Alaska (GOA). Amendment 80 is designed to provide certain economic advantages to participants. Amendment 80 participants could use this economic advantage to increase their participation in other fisheries, primarily in the GOA fisheries, adversely affecting the participants in those fisheries. GOA groundfish and halibut PSC sideboards would limit the catch by Amendment 80 vessels to historic levels in the GOA.

11. Monitoring and Enforcement (M&E)

M&E provisions are necessary for accurate catch accounting and compliance with the Amendment 80 to ensure that Amendment 80 QS holders maintain catches within annual CQ and ITAC allocations in the BSAI, and do not exceed sideboard limits in the GOA. The M&E measures proposed for the Amendment 80 are similar to those currently required for compliance with Amendment 79, and mirror those in place for catcher/processor vessels participating in the Central GOA Rockfish Program.

12. GRS Requirements

All Amendment 80 vessels, regardless of size, would be required to meet GRS requirements in the BSAI. Amendment 80 vessels harvesting in the BSAI under the authority of an Amendment 80 cooperative would be able meet the GRS requirements on an aggregate basis for all vessels in the Amendment 80 cooperative instead of on a vessel-specific basis.

13. Economic Data Report (EDR)

Amendment 80 would implement an economic data collection program to assess the impacts of Amendment 80 on various components of the fishery, including skippers and crew. Amendment 80 would establish a process for collecting and reviewing economic data generated under Amendment 80 by requiring the annual submission of an EDR from each Amendment 80 QS holder.

KEY DATES

- May 30 – Publication in the Federal Register
- June 18 – Second overview of proposed rule – industry feedback requested.
- June 29 – End of public comment period
- August 15 – Anticipated date of final rule publication
- September 15 – Anticipated effective date of rule
- Mid/Late September – RAM will issue letters to Amendment 80 vessel owners and LLP holders notifying them of legal landings in the official record and provide an application package.
- October 15 – Application for QS due.
- November 1 – Application to join a cooperative or fish in the limited access fishery due.
- Late November – Rule to modify the 2008 harvest specifications to incorporate Amendment 80 allocations published.
- January 20, 2008 – Amendment 80 vessels may begin fishing.

KEY PROVISIONS OF THE PROPOSED RULE

BSAI trawl limited access fishery and AFA Sideboards – Sections IV, V, XI; § 679.64; Tables 33, 34, 40 and 41 in the regulatory text.

- ITAC established after allocation to CDQ and ICA using formulae in Tables 33 and 34 in the proposed rule text. Example provided in Section XI using 2008 harvest specifications.
- No adjustment to AFA Pacific cod sideboards
- No adjustment to AFA catcher/processor sideboards for Atka mackerel
- AFA halibut sideboard limits fixed at 2006/2007 levels.
- AFA catcher/processor crab sideboard limits set after CDQ allocation of crab PSQ.
- AFA catcher vessel crab sideboard limits set at limits that would have historically been assigned to specific species groups multiplied by the AFA sideboard limit ratio. The historic limits are: 2000-2002 for red king crab, 1999-2002 for opilio, 1995-2002 for bairdi (Table 41).
- Red King Crab Savings Subarea now set at 25 % of the red king crab trawl PSC limit.

CDQ and Nonspecified reserve– Sections II, III, XI.A, and XII; § 679.20, 31, 27, and 50 in regulatory text

- Non-specified reserve management changed (Table 2 in preamble).
- Increasing the percentage of annual TAC and PSC limits allocated to the CDQ Program as CDQ reserves to 10.7 percent from 7.5 percent. The amount of halibut PSC allocated to the program will increase by 50 mt beginning in 2010, rather than by a percentage amount.
- Fixed gear sablefish and pollock allocations to the program are not affected.
- Affected PSC species include Pacific halibut, non-chinook salmon, and crab.
- The increased CDQ Program allocations only apply to those species with directed CDQ fisheries, as described in the 2007-2008 BSAI groundfish harvest specifications.
- The specific species allocated to the program will be identified in regulation (§ 679.20).

- Existing percentage allocations to CDQ groups that were in effect on March 1, 2006 now apply to new, increased CDQ and PSQ reserves.
- All catch of allocated species will accrue towards a CDQ group's allocations regardless of whether the fish is a target species or a bycatch species.
- Catch of non-allocated species in CDQ fisheries is subject to the general regulations and fishery status that applies to the catch of these species in the non-CDQ fisheries (for example, maximum retainable amount restrictions or prohibitions against retaining any amount of certain species may apply).
- "Hard Cap" management of CDQ reserves applies. Catch of non-allocated species. All catch (incidental or directed) counts toward a CDQ allocation.
- Catcher/processors participating in the groundfish CDQ fisheries will be subject to the same monitoring and enforcement requirements being proposed for catcher/processors fishing for Amendment 80 species.
- CDQ delivery report not required

Allocation of ITAC between sectors – Section IV and XI

- Tables 13, 14, and 15 in Section XI provide examples of ITAC and PSC allocations using the 2007/2008 harvest specifications.
- Pacific cod allocations set in Amendment 85 (Section IV.D.).
 - * Final rule for Amendment 80 would incorporate changes in Amendment 80 sector seasons (A and B season).
 - * Final rule for Amendment 80 would supersede the rollover provisions applicable to the Amendment 80 sector – no rollovers from the Amendment 80 sector. Rollovers to the Amendment 80 sector would follow the provisions established under Amendment 85.
 - * Final rule for Amendment 80 would supersede Amendment 85 halibut PSC management for trawl fisheries.

Eligibility to receive QS – Sections II, V, and XI; § 679.90, Tables 31, and 32.

- Twenty-eight vessels meet the requirements established in statute – Capacity Reduction Program (CRP) to be issued QS. (Section II.A, Table 1 of the preamble; Table 31. A list of Amendment 80 vessels is provided in Table 1 of the preamble (Section II.A).
- The owner of the Amendment 80 vessel is eligible to receive the QS unless the following conditions have been met:
 - The Amendment 80 vessel has suffered an actual total loss, constructive total loss, or is permanently ineligible to fish and that fact can be verified by NMFS;
 - The owner of the Amendment 80 vessel that has been lost or is permanently ineligible has transferred the rights to receive QS to the holder of the Amendment 80 LLP license originally assigned to that Amendment 80 vessel through a clear and unambiguous written contract, and a copy of that contract is provided to NMFS; and
 - The holder of the Amendment 80 LLP license originally assigned to that Amendment 80 vessel applies to receive the QS in a timely fashion and provides the necessary information.
- Section III.F of the preamble discusses an "originally assigned" LLP license and to an Amendment 80 vessel, and "permanently ineligible to fish"?
 - Permanent ineligibility would occur if an Amendment 80 vessel is no longer eligible to receive a fishery endorsement on its USCG documentation under USCG regulations in 46 U.S.C. 12108.

- An originally assigned LLP license for each Amendment 80 vessel is listed in Table 31 in the regulatory text.
- You must apply by October 15, 2007 to receive QS for the 2008 fishing season.
- The estimate of total legal landings, the sum of the best five of seven years for all 28 Amendment 80 vessels is shown in Table 16 in Section XI. This amount is estimated to be the initial QS pool.
- All legal catch “total catch” is included, including any non-trawl catch (very limited).
- Legal landings are not transferable from one vessel to another.
- To estimate the amount of QS you would receive divide your best five of seven years of landings by species, by the amounts specified in Table 16 in Section XI.
- QS permits are affixed to Amendment 80 vessels (except when affixed to the LLP license). If you want to transfer QS, the recipient of the QS must be documented as the owner of the Amendment 80 vessel.
- You must hold an Amendment 80 LLP license to also hold QS (§ 679.7 and CRP requirement).
- QS permits must be transferred in their entirety (no subdivision).
- Three vessels did not have legal landings from 1998-2004 and each will receive 0.5 % of the legal landings of yellowfin sole, 0.5 % rock sole, and 0.1% flathead sole.
- Atka mackerel QS is assigned first to non-mackerel vessels (less than 2% of Atka mackerel legal landings, and vessels under 200 ft. length), then to mackerel vessels (Section IV, VII, and XI describe this process in more detail). Non-mackerel legal landings are apportioned based on the seasonal distribution over all seven years 1998-2004 not just the best five of seven years.

Cooperatives – Section VII, XI; § 679.91.

- The cooperative must meet general membership and organizational requirements (incorporated, identify a designated representative, ;
- A minimum of at least three unique persons not affiliated with each other through direct or indirect ownership or control must assign their QS to an Amendment 80 cooperative;
- At least nine QS permits, either assigned to an Amendment 80 vessel or an Amendment 80 LLP license (i.e., an Amendment 80 LLP/QS license) must be assigned to an Amendment 80 cooperative;
- A complete application to join a cooperative must be submitted by November 1 of the year prior to fishing in a cooperative; and
- Effective in 2009, a timely and complete EDR must be submitted by each cooperative member who wishes to assign QS to a cooperative, as discussed in Section XIII.
- Regulations require an “all in” approach to cooperative formation. Holders of multiple QS permits would have to commit to one cooperative.
- Cooperatives must:
 - Meet the GRS at the cooperative level
 - Fish during the trawl fishing season;
 - Comply with Steller sea lion protection measures (comply with HLA requirements when fishing for Atka mackerel, and not “directed fish” in SSL habitat as appropriate, no directed fishing for Atka mackerel or Pacific cod after November 1).
 - Meet recordkeeping and reporting requirements (some of these may be superseded by IERS rule which would be effective by 2008).
 - Annual cooperative report – not due until March 1, 2009.
- Rollovers of ITAC, ICA, and PSC.

- Amount and timing of rollover of unused ITAC, ICA, and PSC from BSAI trawl limited access sector to Amendment 80 sector would be at the discretion of NMFS using criteria similar to those for making inseason adjustments.
- ICA would be specified annually as a combined amount for both trawl and non-trawl fisheries (Section XI), but the non-trawl ICA would not be subject to rollover.
- 95 % of unused halibut PSC is subject to rollover, 100 % of unused ITAC or crab PSC.
- Rollovers would be apportioned to cooperatives based on the amount of CQ originally issued for the year.
- Cooperative members are subject to joint and several liability.
- Cooperatives can fish on non-allocated species; however, cooperatives must have adequate CQ for incidental harvests and PSC (Section VII.J).
- Cooperatives could not process or receive catch for other cooperatives, the limited access fishery, or the BSAI trawl limited access fishery (Section III.H.).
- Regulations don't specify which vessels or LLP licenses that are assigned to a cooperative are used to fish the CQ issued to a cooperative – cooperative decides.

Amendment 80 Limited Access Fishery – Section VIII; § 679.91

- Not a “default condition.” You must apply to participate. If you don't apply for either a cooperative or a limited access fishery, you don't fish.
- GRS applied at an individual vessel basis.
- Steller sea lion protection measures apply.
- Non-allocated species managed as status quo.

Use Caps – Section IX; § 679.92

- 30 % QS use cap for each person calculated individually or collectively.
- Grandfather clause for persons that receive QS based on Amendment 80 legal landings assigned to Amendment 80 vessel(s) or Amendment 80 LLP license(s) held by that Amendment 80 QS holder:
 - Prior to June 9, 2006; and
 - At the time of application for Amendment 80 QS.
- CQ use cap based on the amount of CQ derived from the Amendment 80 QS units held by that person; and any CQ assigned to that person in an Application for CQ transfer.
- The CQ use cap would be “scaled to QS” to ensure that fluctuations in TAC are accommodated (Section IX.B).
- Vessel use cap is 20% of all of the ITAC assigned to the Amendment 80 sector.
- Transfers of QS or CQ not approved if it would put a person over the use cap.

GOA Sideboard Limits – Section X, § 679.92, Tables 37, 38, and 39.

- GOA sideboard limits for groundfish species are established as a sectorwide limit, not on a cooperative specific basis (Table 37 in the regulatory text).
- Halibut PSC sideboard limits apply on a seasonal basis to all Amendment 80 vessels except the F/V GOLDEN FLEECE. Once the limit is reached for a season and complex (deep water or shallow water), Amendment 80 vessels could not fish in that complex until the start of the following season (Table 38 in the regulatory text).
- Halibut PSC used under the Rockfish Program as CQ would not count against the halibut PSC sideboard limit.
- Eleven vessels have been identified that can fish in the GOA flatfish fisheries (Table 39 in the regulatory text).

- F/V GOLDEN FLEECE cannot directed fish for pollock, Pacific cod, or rockfish, can fish for flatfish, and is not subject to halibut PSC limit.

Monitoring and Enforcement (M&E) – Section XII; §§ 679.4,5,7,27,28,50, and 93

- Monitoring Requirements in the Program.

M&E Requirement	Fishing location		
	BSAI (All non-AFA trawl catcher/processors)	GOA – Except F/V GOLDEN FLEECE (Amendment 80 vessels)	GOA – F/V GOLDEN FLEECE
Observer coverage level	200 % (Two observers)	100 % (One observer)	30 % (Status quo)
Flow scale	Yes	No	No
Observer sampling station	Yes	No	No
One operational line	Yes	Yes	No
No mixing of hauls	Yes	Yes	No
No fish on deck outside codend	Yes	Yes	No
Bin monitoring	Yes	Yes	No
Pre-cruise meeting required	Yes	No	No
VMS	Status quo, see regulations at § 679.28(f)		

- M&E measures applicable when fishing in the BSAI essentially identical to existing requirements for fishing under a Rockfish Program cooperative or limited access fishery.
- M&E measures applicable when fishing in the GOA are essentially identical to existing requirements for Rockfish Program Opt-out fishery.
- Relieve requirements for two lead level 2 observers, only one lead level 2.
- Removed “alternative processing plan” regulations under GRS based on industry comment.
- Minor changes to video monitoring technical standards (USB port required).
- Note: Pre-cruise meeting requirement, changes in video monitoring would also apply to Rockfish Program (effective for next year).

Economic Data Report (EDR) – Section XIII, §679.94.

- Not required until June 1, 2009, and then every June thereafter.
- Data submitted is considered confidential
- All QS holders must submit an EDR, even if they transferred QS during the year.
- The QS holder must have a designated representative (could be the QS holder) that NMFS will contact.
- NMFS could request additional information during an audit. The designated representative would have to reply within 20 days of the request.

Key issues of concern raised by industry at the May 23, 2007 public workshop

Concern	Rationale for Provision	Overview of Industry Comments
Application of an "all in" provision for QS holders to assign all QS, vessels, and LLP licenses to a single cooperative.	Encourage cooperative formation by requiring a choice. Limit tracking of QS assigned to one person in multiple cooperatives. Limit the ability for holders of multiple QS permit to receive a potential competitive advantage by participating in multiple cooperatives and the limited access fishery simultaneously.	May reduce the ease of forming cooperatives because a specific QS permit/vessel may be better suited to a specific cooperative. The risk of a competitive advantage to a QS holder participating in multiple cooperatives may be overstated.
Limit on the ability to receive and process catch from multiple cooperatives, Amendment 80 limited access fishery, CDQ Program, or the BSAI trawl limited access fishery aboard a single vessel.	Reduce the complexities of tracking multiple catches from multiple sources on a single vessel. Proper tracking is needed for both GRS and quota management. Analysis did not review potential effects on GRS, or the economic impacts of "mothership" type operations.	Proposed regulations do not limit CDQ and non-CDQ catch from being processed on the same vessel; the practice occurs now. GRS is intended to apply to all groundfish. Tracking is possible. Some fishery species are not being harvested now due to the lack of adequate processing capacity.
Requirement that persons be accepted by a cooperative if otherwise eligible.	Appears to be a requirement that was retained from the development of the Central GOA Rockfish Program	This could force cooperatives to accept specific persons who may not be suited to a specific cooperative. No clear need for the provision.
Extent of joint and several liability	Joint and several liability encourages cooperatives to ensure compliance within the cooperative. Applied in other cooperative-based LAPPs	Not clear how far this liability may extend (e.g., sexual harassment, injury). This issue may need to be addressed by enforcement rather than in the proposed rule regulations.
Requirement that applicants must apply for a cooperative or limited access fishery annually to fish.	Required in other LAPPs to encourage compliance. Aids NMFS by ensuring that participants are defined in a timely fashion and assigned to the proper fishery.	Central GOA Rockfish Program defaults to the limited access fishery, the same principal should apply. Harms those who may forget the deadline.
Definition of an Amendment 80 LLP license.	Defined as an LLP license originally issued to an Amendment 80 vessel, and those trawl C/P endorsed LLP	This definition could unduly limit the ability to define an LLP license that has been traditionally used onboard an

	licenses named at the time of QS application. Appears consistent with Council intent.	Amendment 80 vessel.
Listing of LLP licenses that are necessary for use while fishing GOA flatfish under sideboard restrictions.	Sideboard limits traditionally limit the vessel and the LLP derived from a vessel.	The list of LLP licenses does not include LLP licenses currently used to fish in the GOA. The list would prevent some vessels from fishing flatfish in the GOA as they do now.
Requirement to provide proprietary financial data in the EDR	Required component for the program. NMFS canvassed industry for specific suggestions during rule development and received limited feedback. Authority and requirements to collect economic data expanded in the recent MSA reauthorization.	The cost and time required to comply is too high. The data may not be adequately protected from release. These data are proprietary. The EDR data should be sorted so that aggregate information useful to the industry can be provided. Other LAPPs should be required to have an EDR.
Lack of a rollover provision of unused ITAC from the Amendment 80 limited access fishery to Amendment 80 cooperatives.	Not recommended by the Council.	A rollover from the BSAI trawl limited access sector is provided. The same principle should apply to the Amendment 80 limited access fishery. Lack of Council recommendation is an oversight.
Lack of a post-delivery transfer mechanism for CQ	Not recommended by the Council. Action on this issue is being addressed under separate rule making.	Post delivery transfers would help reduce the complexity of intercooperative CQ transfers.
Reference to season start dates in the preamble	Aid public in understanding the need to continue to comply with existing regulations. Season start date regulations are not amended by this rule.	Subsequent action to amend season start dates could forget to address provision under Amendment 80 and adversely affect the fleet.